

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In the Matter of:)
)
Amendment of Part 22 of the)
Commission's Rules To Enable a)
Cellular Telephone User Effective)
and Reliable Access to 911 Service)

DOCKET FILE COPY ORIGINAL
CC Docket No. 94-102

RECEIVED
DEC 15 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

COMMENTS

AT&T Wireless Services, Inc. ("AT&T"),¹ by its attorneys, respectfully submits its comments in Response to the above-captioned Petition for Rulemaking filed by the Ad Hoc Alliance for Public Access to 911 ("Alliance"). As discussed below, AT&T agrees with the Petition insofar as it seeks to assure that roamers receive access to 911, where technically feasible. In other respects, however, the Petition is contrary to sound public policy and technical realities.

I. BACKGROUND

The Alliance suggests that the Commission's rules should "require that the public be afforded extensive and unrestricted access, for the purpose of placing emergency 911 telephone calls, to the nation's cellular telephone systems."² To this end, the Alliance seeks to amend Section 22.911 of the Rules to require cellular carriers promptly to "connect all 911 calls without precondition." It also urges

¹ AT&T is a wholly-owned subsidiary of AT&T Corp.

² Petition at 2.

No. of Copies rec'd
List ABCDE

044

that OET Bulletin No. 53 be supplemented "to require that all newly constructed mobile and portable stations be equipped to scan all of the control cellular telephone channels assigned to both System A and to System B and select and use the channel with the strongest signal whenever a 911 call is placed."³

As the nation's largest provider of cellular telephone services, AT&T certainly agrees with the Alliance that obstacles to 911 access should be minimized. 911 access cannot be considered in the abstract, however. Rather, issues of cellular/911 compatibility must be addressed with due consideration of other factors, including technical feasibility, fraud and harassment risks, and equity vis-a-vis cellular subscribers. Analyzing the Petition against the proper background, it is apparent that the relief sought is only partly warranted, as discussed below.

II. VALID ROAMERS SHOULD BE GIVEN ACCESS TO 911, BUT THE PETITION SHOULD BE DENIED IN ALL OTHER RESPECTS.

A. Access by Non-Home System Subscribers Should Be Required Only in the Case of Valid Roamers.

The Petition proposes that "all cellular telephone base stations be required to promptly and unconditionally process all 911 calls without regard to the status of the cellular telephone used to place such a call."⁴ The Alliance fails to

³ Id. at e.

⁴ Id. at 5.

recognize, however, that there are persuasive reasons to block 911 access by certain non-system subscribers -- and that doing so will not unreasonably deprive users of access to 911 services. Specifically, while valid roamers should be able to access 911, significant policy considerations militate against granting mandatory access to non-activated, cloned or stolen phones.

Roamers are subscribers to a cellular system who are seeking to place calls outside their home service area. When a roamer turns on its handset in the roamed-to system -- and the system has an automatic roaming arrangement with the caller's home system -- the roamed-to system is capable of recognizing the caller as a legitimate subscriber. In such circumstances, there is no reason to deny access to 911.⁵

A different situation is presented by 911 calls from non-activated, stolen or cloned phones; with respect to these types of callers, the Alliance presents no basis for the relief sought. The Alliance is correct that many cellular subscribers take service primarily for safety and security reasons;⁶ however, cellular carriers have responded to this demand by providing a variety of low-cost service plans designed for the casual or emergency-only user. Accordingly,

⁵ In instances where no automatic roaming agreement is in place, AT&T provides access to 911 unless it has determined that the phone is non-activated, stolen, or cloned.

⁶ Id. at 3.

there is no economic barrier to obtaining a phone for emergency use purposes, and denying access to non-subscribers in certain circumstances is neither harsh nor contrary to the public interest.

In contrast, requiring unrestricted access to 911 would exacerbate the major fraud problem plaguing the cellular industry and the already high incidence of prank or harassing calls to emergency service providers. If carriers are required to provide 911 access to non-activated customers, there will be no means of identifying calling parties, and therefore no risk to individuals seeking to engage in such activities. Notably, AT&T is not alone in its concern regarding the effect on 911 systems of requiring carriers to provide 911 access to non-activated, stolen, or cloned phones. New Jersey state legislators were prompted in 1993 to increase the penalties for false 911 calls when a police officer was killed in a car accident while responding to a false 911 call placed from a stolen cellular phone. Service to the phone was shut off after it was reported stolen, but the phone could still be used to access 911. According to press reports, authorities believe that 54 prank calls were made from the handset, including the call that resulted in the police officer's death.⁷ In some cellular markets, AT&T and other carriers have tried to respond to community

⁷ See Attachment 1 hereto.

concerns regarding prank 911 calls by terminating access to 911 from handsets that have been identified as stolen, cloned, or non-activated. These worthwhile initiatives would have to be discontinued if the broad relief requested by the Alliance were granted without qualification.

As a related matter, if 911 access is required to be provided to non-activated phones, the cellular carrier will not be able to pass call-back number information to the public safety answering point, since no subscriber number will be associated with the handset. As the comments of the public safety community in this rulemaking docket evidence, however, this information is considered vital in the mobile context. The relatively greater risk of dropped calls, compared to the landline environment, makes it difficult to provide reliable response services without passage of the call-back number.

Allowing mandatory access by non-subscribers also would raise troubling economic and equity issues. For example, the relief requested by the Alliance would enable customers to avoid paying the 911 funding fees that many jurisdictions impose on cellular subscribers. There is no justification for creating a class of free riders who are entitled to the benefits of 911 service without helping to shoulder the associated burdens. Doing so would unfairly impose additional costs on legitimate subscribers and, quite

possibly, contribute to funding shortfalls that would impair emergency response services.⁸

In short, the Alliance has failed to anticipate or address several compelling reasons not to require unrestricted access to 911 by all non-system subscribers. Consequently, any relief granted should be qualified to allow carriers to deny 911 access to non-activated, stolen or cloned phones.

B. Cellular Carriers Should Not Be Required To Send 911 Calls to the System With the Strongest Control Channel Signal.

The Alliance's second request is without merit, and could actually detract from public safety. Currently, cellular telephones can be programmed automatically to send calls to the subscriber's preferred carrier. If there is no signal available from that carrier -- for example, if an A system subscriber roams into a market with no A system carrier -- the phone will automatically switch to the other carrier's signal.⁹ Accordingly, the rule sought by the

⁸ The Petition does indirectly raise the importance of adopting a rational mechanism for funding wireless subscriber access to 911 and, particularly, E911 services. As AT&T emphasized in its comments and reply comments in the underlying rulemaking in this docket, wireless service providers must enjoy the same treatment as wireline LECs when it comes to funding upgrades needed to comply with 911 service obligations.

⁹ As discussed below, however, if that carrier uses a different air interface than the handset, the call could not be carried.

Petition would apply only in situations where there are two signals, and one is stronger than the other. In this case, the caller's handset will automatically increase its power output to reach the base station of the preferred carrier. The relative signal strength of the carriers is, therefore, meaningless with regard to the customer's ability to complete a call.

In addition, the relief advocated by the Alliance is neither technically appropriate nor desirable. From a technical standpoint, cellular carriers currently use three different air interfaces -- the analog AMPS standard, and digital TDMA and CDMA. If phones were automatically programmed to search out the strongest control signal, but the carrier possessing that signal used an incompatible air interface, the subscriber would be unable to complete the call.

Moreover, the Petition too lightly dismisses the possibility that the calling party will move during the course of the call.¹⁰ If a signal is weak at a particular location, the calling party almost always will be able to move to a better location. Conversely, a strong signal at

¹⁰ The Alliance suggests that a caller to 911 may not be able to move to an area with a stronger signal "because the caller may be, and often is, incapacitated by illness, injury or a damaged vehicle." Petition at 4. No support is offered for this assertion, however, and in reality, the significant majority of mobile 911 calls are used to report accidents or incidents not involving the calling party.

the point where a call is placed may well dissipate as the calling party moves.

Lastly, the Alliance does not explain why selecting the carrier with the strongest control signal will necessarily guarantee the strongest voice signal. As a practical matter, the voice signal may be satisfactory even if the control signal is weak, and vice versa. Therefore, there is no technical basis for adopting the Alliance's proposal.

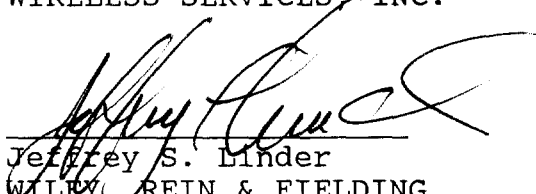
III. CONCLUSION

For the foregoing reasons, AT&T agrees that valid roamers should be granted access to 911. The other relief sought by the Petition is unjustified, however, and could actually impede rather than promote public safety.

Respectfully submitted,

AT&T WIRELESS SERVICES, INC.

By:


Jeffrey S. Linder
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Cathleen A. Massey
William Covington
AT&T WIRELESS SERVICES, INC.
1150 Connecticut Ave., N.W.
4th Floor
Washington, D.C. 20036
(202) 223-9222

Its Attorneys

December 15, 1995

THE SUNDAY RECORD

NOVEMBER 28, 1993

2 held in call that sent cop to his death

Electronic sleuthing leads to cousins' arrest in N.Y.C.

By **TOM TOPOUSIS**

Staff Writer

Detectives following an electronic trail through the airwaves over New York and New Jersey have arrested two men and charged them with making the prank 911 call last week that led to the death of a Paramus police officer, police said Saturday.

Announcement of the arrests came one day after more than 2,000 mourners, including police from as far away as Virginia and Maine, attended the funeral of Officer Vincent Brock, a 12-year veteran of the Paramus police force.

Anthony Figueroa, 23, of Garfield, and his cousin, Earl Figueroa, 20, of Newark, were arrested on a Harlem street Friday afternoon, charged with making the false police report and with the

theft of a cellular phone used to make the call, both felonies.

Bergen County Prosecutor John J. Fahy said he is combing through New Jersey laws, searching for a way to charge both men with manslaughter for making an illegal police report that led an officer to his death.

So far, the Figueroa cousins have been charged in New Jersey with calling in the false police report. Holding them legally responsible for Brock's death will be difficult, Fahy said.

"We haven't charged them with manslaughter yet, but we will if we can," the prosecutor said. "If this doesn't rise to the level of manslaughter under the current case law, it [the law] should be changed."

See **ARRESTS** Page A-13

ARRESTS: 2 held in 911 call

From Page A-1

Brock, 39, lost control of his patrol car and crashed into a utility pole off Route 4 east Monday night. He was speeding toward the scene of a reported shooting outside a Roy Rogers restaurant near the Garden State Plaza.

He was pronounced dead a short time later.



BROCK

The anonymous report made from a cellular phone to the Bergen County Police Department's 911 line at 7:34 p.m. turned out to be a hoax. Investigators found no evidence of a shooting at or near the restaurant.

Without any physical evidence with which to track down the caller, police turned to the airwaves in a high-tech investigation that enlisted the aid of New York City's Organized Crime Task Force.

Police knew the prank call came from a cellular phone because, unlike ordinary phones, cellular numbers are not recorded by the Caller ID systems used by most police departments to track incoming calls.

Fahy said investigators traced every cellular call made in the Paramus area at the time the prank call was received. "We knew the exact time the call came in and we figured it came from somewhere near Paramus," Fahy said.

The audit of cellular phone company records turned up the number of a phone that had been reported stolen Oct. 29 from a car parked outside Shakers, a go-go lounge in Carlstadt.

Fahy said service to the handheld cellular phone was shut off after it was reported stolen. But he said the phone company, Cellular One, has a policy of allowing calls to be made to 911 even when service is cut off.

Unable to use the phone for anything else, Fahy said, the Figueroas are believed to have made 54 calls to 911 emergency lines in New York and New Jersey between Nov. 16 and Nov. 26.



ANTHONY FIGUEROA

Tracked through cellular phone

Among those was the call in Paramus.

After the prank call that led to Brock's death, Cellular One restored complete phone service to the stolen phone at the request of police, who hoped to track the phone and its user with electronic surveillance equipment.

On Friday, a unit of the New York Police Department's Organized Crime Technical Service tracked the electronic signals coming from the cellular phone to the corner of 118th Street and 7th Avenue in Harlem, Fahy said.

New York and Paramus police found Anthony and Earl Figueroa using the cellular phone while standing outside a barbershop where they both worked.

"We're pleased we were able to make an apprehension, but that doesn't bring Officer Brock back," Deputy Paramus Police Chief Dick Majcher said.

Majcher, joined at the news conference Saturday by Paramus Mayor Cliff Gennarelli and Paramus PBA President Andrew Rizzo, said Brock's family was told of the arrest on Friday, after the funeral.

"The family is very early in its grief," Majcher said. "We have been trying and will continue to keep the family informed."

The two suspects are being held in New York, pending extradition to New Jersey. If they agree to extradition, Fahy said, they could be

returned to New Jersey in a week. If they do not agree, it could take two to three weeks.

They will face felony charges in New Jersey of filing a false police report. The charge carries a maximum sentence of 18 months in prison. Both men also face felony charges of grand larceny, possession of stolen property, and theft of services in New York. Fahy said.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments of AT&T Wireless Services, Inc." were served this 15th day of December, 1995 by first class mail, postage prepaid, on the parties on the attached list.


Robin B. Walker

James S. Blaszak
Ellen G. Block
Levine, Balszak, Block & Boothby
1300 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20036

Jim Conran
Ad Hoc Alliance for Public
Access to 911
P.O. Box 2346
Orinda, CA 94563

Glenn S. Rabin
ALLTEL Mobile Communications
655 15th Street, N.W.
Suite 220
Washington, D.C. 20005

Elizabeth R. Sachs
Lukas, McGowan, Nace & Gutierrez
1111 19th Street, N.W.
Suite 1200
Washington, D.C. 20036

Frank Michael Panek
Ameritech
Room 4H84
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196-1025

Lon C. Levin
AMSC Subsidiary Corp.
10802 Park Ridge Boulevard
Reston, VA 222091

Bruce D. Jacobs
Glenn S. Richards
Fisher Wayland Cooper
Leader & Zaragoza
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006

William F. Adler
Steven N. Teplitz
Fleischman & Walsh
1400 Sixteenth Street, N.W.
Washington, D.C. 20036

Robert M. Gurss
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

James R. Hobson
Donelan, Cleary, Wood & Maser
1100 New York Avenue, N.W.
Suite 750
Washington, D.C. 20005

William B. Barfield
Jim O. Llewellyn
BellSouth Corporation
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610

Charles P. Featherstun
David G. Richards
BellSouth Corporation
1133 21st Street, N.W.
Suite 900
Washington, D.C. 20036

Gary O'Malley
Cable Plus
11400 SE 6th Street, Suite 120
Bellevue, WA 98004

Peter Arth, Jr.
Edward W. O'Neill
Ellen S. Levine
People of the State of
California and the Public
Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Michael F. Altschul
CTIA
1250 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20036

Adam A. Andersen
CMT Partners
651 Gateway Boulevard
15th Floor
South San Francisco, CA 94080

Thomas Gutierrez
Lukas, McGowan, Nace & Gutierrez
Suite 1200
1111 Nineteenth Street, N.W.
Washington, D.C. 20036

J.D. Hersey, Jr.
Chief, Maritime Radio and
Spectrum Management
United States Coast Guard
2100 Second Street, S.W.
Washington, D.C. 20593-0001

Alicia A. McGlinchey
COMSAT Mobile Communications
22300 COMSAT Drive
Clarksburg, MD 20871

Robert A. Mazer
Rosenman & Colin
Suite 200
1300 19th Street, N.W.
Washington, D.C. 20036

Paul R. Schwedler
Carl W. Smith
Regulatory Counsel
Telecommunications, DoD
Defense Information Sys Agency
Code DO1
701 S. Courthouse Road
Arlington, VA 22204

David C. Jatlow
Young & Jatlow
Suite 600
2300 N Street, N.W.
Washington, D.C. 20037

Danny E. Adams
Ann M. Plaza
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Susan H.R. Jones
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900, East Tower
Washington, D.C. 20005

Andre J. Lachance
David J. Gudino
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

B.J. Smith
911 Emergency Telephone
Operations
Hillsborough County, Office
of the County Administrator
P.O. Box 1110
Tampa, FL 33601

Robert S. Koppel
Richard S. Whitt
IDB Mobile Communications, Inc.
15245 Shady Grove Road
Suite 460
Rockville, MD 20850

Brian R. Moir
Moir & Hardman
2000 L Street, N.W.
Suite 512
Washington, D.C. 20036-4907

S.A. Penington
Chairman, Interagency Committee
on Search & Rescue
United States Coast Guard
2100 Second Street, N.W.
Washington, D.C. 20593-0001

Charles J. Hinkle, Jr.
KSI Inc.
7630 Little Rive Turnpike
Suite 212
Annandale, VA 22003

Paul C. Besozzi
D. Cary Mitchell
Besozzi, Gavin & Craven
1901 L Street, N.W.
Suite 200
Washington, D.C. 20036

Thomas H. Bugbee
Bruce Malt
Regulatory Affairs
Telecommunications Branch
Information Technology Services
P.O. Box 2231
Downey, CA 90242

Larry A. Blosser
Donald J. Elardo
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Michael D. Kennedy
Michael A. Menius
Motorola, Inc.
1350 I Street, N.W.
Suite 400
Washington, D.C. 20005

Paul Rodgers
Charles D. Gray
James Bradford Ramsay
NARUC
1102 ICC Building
P.O. Box 684
Washington, D.C. 20044

George N. Rover
Deputy Attorney General
AOG/Legal Affairs
State of New Jersey
Hughes Justice Complex
CN 080
Trenton, N.J. 08625-0080

Robert S. Foosaner
Lawrence R. Krevor
Laura L. Holloway
Nextel Communications, Inc.
800 Connecticut Avenue, N.W.
Suite 1001
Washington, D.C. 20006

Albert H. Kramer
Robert F. Aldrich
Keck, Mahin & Cate
1201 New York Avenue, N.W.
Penthouse Suite
Washington, D.C. 20005-3919

Lyle V. Gallagher
State 911 Coordinator
Emergency Services Communication
System Advisory Committee
P.O. Box 5511
Bismarck, N.D. 58502-5511

Stephen L. Goodman
Halprin, Temple & Goodman
1100 New York Avenue, N.W.
Suite 650 East
Washington, D.C. 20005

John G. Lamb
Northern Telecom Inc.
2100 Lakeside Boulevard
Richardson, TX 75081-1599

Edward R. Wholl
Jacqueline E. Holmes Nethersole
NYNEX Companies
120 Bloomingdale Road
White Plains, N.Y. 10605

Lisa M. Zaina
OPASTCO
21 Dupont Circle, N.W.
Suite 700
Washington, D.C. 20036

David C. Yandell
Technology and Operations
Section, Emergency Management
Division, Oregon State Police
595 Cottage Street, NE
Salem, OR 97310

James P. Tuthill
Betsy Stover Granger
Pacific Bell
140 New Montgomery Street
Room 1525
San Francisco, CA 94105

James L. Wurtz
Pacific Bell
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Naomi L. Wu
Communications Manager
Port Angeles Police Dep't
321 East 5th Street
Port Angeles, WA 98362

Mark J. Golden
Personal Communications Industry
Association
1019 - 19th Street, N.W.
Suite 1100
Washington, D.C. 20036

Michael J. Celeski
Pertech America, Inc.
One Illinois Center
111 East Wacker Drive
Suite 500
Chicago, IL 60601

Mary A. Boyd
JEM Co-Chair
Texas Emergency Communications
Commission
1101 Capital of TX Hghwy, South
Austin, TX 78749

Gary Jones
JEM Co-Chair
Omnipoint Corporation
1365 Garden of the Gods Rd
Colorado Springs, CO 80907

O.C. Lee
Proctor & Associates
15050 Northeast 36th
Redmond, WA 98052-5317

Jerome S. Caplan
Redcom Laboratories, Inc.
One Redcom Center
Victor, N.Y. 14564-0995

David L. Jones
Rural Cellular Association
2120 L Street, N.W.
Suite 520
Washington, D.C. 20037

James D. Ellis
Mary Marks
SBC Communications, Inc.
175 E. Houston, Suite 1306
San Antonio, TX 78205

Wayne Watts
Bruce E. Beard
Southwestern Bell Mobile Systems
17330 Preston Road
Suite 100A
Dallas, TX 75252

Jean L. Kiddoo
Shelley L. Spencer
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

Peter J. Tyrrell
Springwich Cellular L.P.
227 Church Street
Room 1021
New Haven, CT 06510

Leonard Schuchman
Systems Integration Group
Stanford Telecom
1761 Business Center Drive
Reston, VA 22090

Raul R. Rodriguez
Stephen D. Baruch
Leventhal, Senter & Lerman
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006

Alfred Sonnenstrahl
Telecommunications for the Deaf
8719 Colesville Road
Suite 300
Silver Spring, MD 20910

R. Michael Senkowski
Jeffrey S. Linder
Ilene T. Weinreich
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dan Bart
Eric Schimmel
Ron Angner
Jese Russell
TIA
2500 Wilson Boulevard, Suite 300
Arlington, VA 22201

Michael J. Miller
Telident, Inc.
4510 West 77th Street
Suite 101
Minneapolis, MN 55435

David Kelley
Terrapin Corp.
11958 Monarch Street
Garden Grove, CA 92641

Scott A. Sawyer
Assistant Attorney General
Consumer Protection Division
Public Agency Representation
P.O. Box 12548
Capitol Station
Austin, TX 78711-2548

Norman P. Leventhal
Stephen D. Baruch
David S. Keir
J. Brock Blalock
Leventhal, Senter & Lerman
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006

Jeffrey S. Bork
U S West
1020 - 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Jeffrey L. Sheldon
Thomas E. Goode
UTC
1140 Connecticut Avenue, N.W.
Suite 1140
Washington, D.C. 20036

Arthur A. Butler
Sara Siegler-Miller
Ater Wynne Hewitt Dodson
& Skerritt
601 Union Street
Suite 5450
Seattle, WA 98101-2327

Robert G. Oenning
State of Washington
Statewide E911 Program
1417 - 6th Avenue S.E.
P.O. Box 48346
Olympia, WA 98504-8346

Martin W. Bercovici
Keller & Heckman
1001 G Street, N.W.
Suite 500W
Washington, D.C. 20001-4545

James Carlsen
Westinghouse Electric Corp.
Electronic Systems Group
P.O. Box 746 - MS A475
Baltimore, MD 21203

ITS, Inc. *
1919 M Street, N.W.
Room 246
Washington, D.C. 20554

* BY HAND

William T. Bradfield
Tendler Cellular
65 Atlantic Avenue
Boston, MA 02110

Lorri Ann Ericson
Puyallup City Communications
1531 39th Avenue S.E.
Puyallup, WA 98374

Michael L. King
Anacortes Communications Center
Anacortes Police Department
1011 - 12th Street
Anacortes, WA 98221

Betsy L. Anderson
1320 N. Court House Road
Eighth Floor
Arlington, VA 22201